SUBCHAPTER M : DISCHARGES TO SURFACE WATERS FROM PETROLEUM BULK STATIONS AND TERMINALS \$\\$321.231-321.240

§321.231. Definitions.

The following words and terms used in this subchapter shall have the following meanings unless the context clearly indicates otherwise:

Contact Storm water - Storm water which comes into contact with any raw material, product, by-product, co-product, intermediate, petroleum fuel, or waste material.

Domestic Sewage - Waterborne human (animal) waste and waste from domestic activities, such as washing, bathing, and food preparation.

Existing Facilities - Petroleum Bulk Stations and Terminals in active operation prior to January 5, 1996.

Facility Wastewater - Any liquids which are accidentally released from storage, transfer or loading facilities; liquids from equipment cleaning or vehicle maintenance; any water and hydrocarbon mixtures drawn from storage, transfer, or loading facilities; or other similar wastewater associated with petroleum fuel handling. Facility wastewater shall not include domestic sewage.

Grab Sample - An individual sample collected in less than 15 minutes.

MGD - Million gallons per day.

Mg/l - Milligrams per liter

New Facilities - Petroleum Bulk Stations and Terminals not defined in this section as existing facilities.

Petroleum Bulk Stations and Terminals (PBST) - Establishments primarily engaged in the cooperative or wholesale distribution of refined petroleum products or petroleum fuels from bulk liquid storage facilities.

Petroleum Fuel - Gasoline, diesel fuel, fuel oil, fuel additives, kerosene and jet fuel, or any other petroleum-based material having physical and chemical properties similar to the listed materials and receiving approval by the executive director for designation as a petroleum fuel.

Point Source Discharge - A discharge from any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit or discrete fissure.

Publicly Owned Treatment Works or "POTW" - A treatment works owned by a state or municipality, which includes any device or system used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment. This term also means the municipality which has jurisdiction over indirect discharges to and discharges from such a treatment works.

Registrant - An individual or entity authorized by the executive director to discharge facility wastewater and contact storm water from petroleum bulk stations and terminals under the terms and requirements of this subchapter.

Small Petroleum Bulk Stations and Terminal (Small PBST) - An establishment primarily engaged in the cooperative or wholesale distribution of refined petroleum products or

petroleum fuels from a bulk liquid storage facility which consists of no greater than 100,000 gallons storage capacity total.

Storm water - Storm water runoff, snow melt runoff, surface runoff, and drainage.

Treated Facility Wastewater - Facility wastewater which has been biologically, chemically, or mechanically treated, or which has been treated using other advanced treatment methods and achieves a level of treatment which complies with this subchapter.

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§321.232. Purpose and Applicability.

- (a) The purpose of this subchapter is to regulate by rule the surface discharge of treated facility wastewater, facility wastewater which otherwise meets the effluent limitations of this chapter, and contact storm water from petroleum bulk stations and terminals to surface water in the state. Certificates of registration issued under this subsection are subject to Chapter 50, Subchapter C, of this title (relating to Action by Executive Director).
- (b) Discharges are allowable under this subchapter only by registrants of those facilities which have a certificate of registration issued by the executive director under §321.234 of this title (relating to Certificate of Registration and Public Notice), and which meet the requirements of §321.235 of this title (relating to General Requirements for Discharge) and §321.236 of this title (relating to Specific Requirements for Discharge).
- (c) This rule does not apply to facilities which are part of a petroleum refinery or facilities which store or transfer non-petroleum products such as organic, inorganic, or toxic chemicals.
- (d) An application for an emergency order, temporary order, or permit as provided by Chapter 305, Subchapter B, of this title (relating to Consolidated Permits) must be submitted for the discharge of any other wastewater not authorized by this rule to the water in the state.
- (e) Commission authorization by an emergency order, temporary order, or a separate permit is not required if treated or untreated facility wastewater, or other wastewater is either discharged or transported to a POTW which has a wastewater discharge permit issued by the agency.
- (f) This rule does not authorize the discharge of any domestic sewage into or adjacent to water in the state. All domestic sewage shall be either routed to an authorized and adequately designed septic tank/drain field system, POTW, or disposed of in accordance with commission regulations.
- (g) An agency emergency order, temporary order, or permit for discharge of any wastewater from a petroleum bulk station or terminal may supersede the provisions of this rule.
- (h) Small PBSTs may be exempt from registration if there is no discharge of facility wastewater and if storm water pollution prevention measures are implemented to control storm water runoff, contact storm water run-on, and potential leaks or spills from the tanks and ancillary facilities. Storm water pollution prevention measures shall include, at a minimum, a diked or curbed perimeter

surrounding the tank area and ancillary facilities to contain contact storm water runoff and any potential leaks or spills.

(i) If the executive director denies a registration application under this subchapter, the facility must obtain a permit pursuant to the Texas Water Code, Chapter 26.

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§321.233. Active Permits.

PBSTs that are currently operating under a valid agency wastewater discharge permit may apply for registration of these operations prior to the expiration date of the permit. Upon issuance of the final registration, the executive director shall void the permit. This subchapter does not prevent the executive director from denying a registration or registration application and requiring the facility to have a permit.

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§321.234. Certificate of Registration and Public Notice.

- (a) An applicant must apply for registration on a form approved by the executive director. A completed application shall be submitted to the agency's Wastewater Permits Section (MC 148). Before issuing a certificate of registration, the executive director will review the application to determine whether the facility operations meet the requirements of §321.235 of this title (relating to General Requirements for Discharge) and §321.236 of this title (relating to Specific Requirements for Discharge).
- (b) The executive director may take action on an application to issue a certificate of registration, provided:
- (1) At least 30 days prior to approving an application and issuing the certificate of registration, notice of the application has been provided by the applicant, at the applicant's cost:
- (A) in a newspaper regularly published and generally circulated within the county and area wherein the proposed facility and discharge is to be located;
- (B) in writing by certified mail (return receipt requested) to the county judge of the county in which the facility is to be located and also when the facility is to be located within the jurisdictional boundaries of a city or town, to the mayor of that city or town; and
- (C) the notices of application are provided in a format approved by the commission and shall fairly set forth the substance of the application and proposed action, including but not limited to, the general location of any point of discharge, the method of obtaining additional information about the application, and the method for submitting comment on the application.

- (2) With any application for a registration, submitted pursuant to this subchapter, the applicant shall also provide proof to the executive director that public notice was provided in accordance with paragraph (1) of this subsection. The proof shall be provided within 14 days of obtaining the following information, which shall consist of:
- (A) a signed affidavit from the publisher acknowledging that the notice was published, indicating the date of publication, and providing a copy of the newspaper clipping; and
- (B) a sworn statement from the applicant that written notice was mailed to the appropriate entities, identified in this subsection, along with a copy(s) of the return receipt acknowledgment from the U.S. Postal Service.
- (3) The application, including the material required by paragraph (2) of this subsection, shall be mailed to the agency's Wastewater Permits Section (MC 148). The application shall undergo review by the executive director following the determination that notice requirements of this section are met.
- (4) Any pertinent comments received by the executive director prior to the end of the 30-day period, after all the notices have been provided, will be considered as a part of any decision of approval, denial, or modification of a request for registration from an applicant. The executive director shall mail notice of the final decision to the applicant and to any other person who submitted comments on the application.
- (c) The public notice provisions of this section do not apply to a facility which is operating under an agency wastewater discharge permit if the facility applies for registration prior to the expiration date of the permit.
- (d) Public notice provisions of this section do not apply to an existing facility which is not operating under an agency wastewater discharge permit if an application for registration is received by the executive director within 365 days after the date this rule takes effect.
- (e) For existing facilities that do not hold a valid agency wastewater discharge permit and are not authorized to discharge by an emergency order or temporary order, an application for registration or an application for an agency wastewater discharge permit must be submitted within 365 days after the date this rule takes effect.

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§321.235. General Requirements for Discharge.

(a) Only contact storm water, facility wastewater, and treated facility wastewater which meet the requirements of this subchapter, including the effluent limitations specified in §321.236 of this title (relating to Specific Requirements for Discharge) may be discharged into water in the state.

- (b) Facility wastewater and contact storm water shall be treated when necessary to conform to effluent discharge limitations, including reductions of total petroleum hydrocarbons, benzene, BTEX, lead, and other possible pollutants and, if necessary, adjustment of pH.
- (c) Disposal of solid waste shall be in accordance with Chapter 361 of the Texas Health and Safety Code.
 - (d) The discharge shall not cause any nuisance conditions.
- (e) The discharge shall not be acutely toxic to aquatic life, as described in Chapter 307 of this title (relating to Texas Surface Water Quality Standards).
- (f) The facility shall take all steps necessary to prevent any adverse effects upon human health or safety, or to the environment. Any facility authorized under this subchapter shall comply with the following:
- (1) The registrant shall report any noncompliance (to include any unauthorized discharges or overflows) with the requirements of this subchapter which may endanger human health or safety or the environment. Report of such information shall be provided orally to the agency's regional office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided to the agency's regional office and to the agency's Water Section, Enforcement Division (MC 149), within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and, steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
- (2) Any noncompliance which is greater than 40% of the authorized effluent limitations as expressed in §321.236(a) of this title (relating to Specific Requirements for Discharge) shall be reported in writing to the agency's regional office and to the agency's Water Section, Enforcement Division (MC 149), within five working days of becoming aware of the condition.
- (g) The registrant must notify the executive director, in writing, of any change in control or ownership of facilities, or any expansion of facilities authorized under this subchapter. The applicant must send the notification to the agency's Wastewater Permits Section (MC 148).
- (h) The executive director may deny an application for registration on the following grounds: the potential or actual adverse impact on or close proximity to, a public park, school, recreational area, spring, water supply well, surface water supply intake, water treatment plant intake, potable water storage facility or sewage treatment plant. In making such determination, the executive director may also consider other factors necessary to carry out its powers and duties under the Texas Water Code and other laws of the state.

§321.236. Specific Requirements for Discharge.

(a) Facilities regulated under this rule are authorized to discharge facility wastewater, treated facility wastewater, and contact storm water from point sources in accordance with the following maximum limitations and monitoring requirements. **Figure 1: 30 TAC §321.236(a)**

Figure 1: 30 TAC §321.236(a)

<u>Parameter</u>	<u>Limitation</u>	Sample Type	Monitoring Frequency(*1)
Flow, MGD	Report	Estimate	1/day
Total Petroleum Hydrocarbons	15 mg/l	Grab	1/week
Benzene	0.05 mg/l	Grab	1/week
Total BTEX (*2)	0.5 mg/l	Grab	1/week
Total Lead	0.25 mg/l	Grab	1/week

^(*1) If discharge occurs less frequently than the minimum monitoring frequency, then monitoring shall be conducted for each discharge event. For a discharge consisting of contact stormwater only, the sample shall be obtained within 60 minutes after discharge begins.

^(*2) Benzene, toluene, ethyl benzene, xylene

- (b) The pH of the discharge shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored once per week (*1) by grab sample.
- (c) There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
- (d) Monitoring and reporting requirements for lead are suspended if none of the substances stored at the facility include refined petroleum products or petroleum fuels containing lead or lead additives. If at a later date refined petroleum products or petroleum fuels containing lead or lead additives are stored, then monitoring and reporting requirements for lead are resumed.
- (e) All discharges from petroleum bulk stations and terminals shall comply with §319.22 of this title (relating to Quality Levels-Inland Waters) or shall comply with §319.23 of this title (relating to Quality Levels-Tidal Waters).

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§321.237. Sampling, Reporting, and Recordkeeping.

- (a) Unless otherwise specified in this subchapter, sampling and laboratory test methods shall comply with procedures specified in §319.11 of this title (relating to Sampling and Laboratory Testing Methods).
- (b) Results of monitoring of each constituent specified in §321.236 of this title (relating to Specific Requirements for Discharge) shall be reported by the registrant to the executive director on the Petroleum Bulk Stations and Terminals Report form approved by the executive director. Monitoring results shall be reported to the executive director in accordance with the following schedule. **Figure 1:** 30 TAC §321.237(b)

Figure 1: 30 TAC §321.237(b)

Monitoring Period	Report Due
January, February, March	April 30th
April, May, June	July 31st
July, August, September	October 31st
October, November, December	January 31st

(c) The registrant shall maintain results of monitoring of each constituent specified in §321.236 of this title (relating to Specific Requirements For Discharge) or the equivalent information shall be maintained for a minimum of three years and shall make these results readily available for review upon request. The registrant authorized under the terms of this subchapter shall maintain records of the process control, maintenance activities, and solids disposal to include at a minimum: volume and dates on which solids were removed, identity of any transporter, location and identity of any solids disposal site, and method of final disposal. This information shall be maintained for a minimum of three years and shall be readily available for review upon request.

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§321.238. Restrictions.

- (a) This rule does not convey property rights or grant any exclusive privilege.
- (b) Nothing in this rule shall be construed to authorize any injury to persons or property, or an invasion of other property rights, or any infringement of state or local law or regulations.
- (c) Separate authorizations may be required by the executive director, municipalities, or other agencies for discharges to publicly owned treatment works, domestic sewage plants, storm water sewers, or for air emissions.

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§321.239. Enforcement and Revocation.

If any registrant or facility regulated by this subchapter fails to comply with the terms of this subchapter, the executive director may take enforcement action as provided by the Texas Water Code and in accordance with Chapter 337 of this title (relating to Enforcement). The executive director may revoke any registration granted to a registrant or facility due to noncompliance with the requirements of this subchapter, after notice to the registrant and opportunity for hearing, and such registrant shall cease any discharge until such time as the facility is issued a wastewater discharge permit, an emergency order, or temporary order as provided by Chapter 305, Subchapter B, of this title (relating to Consolidated Permits) for the discharge of wastewater into or adjacent to water in the state. The executive director may require a small PBST defined as exempt from registration under §321.232(h) of this title (relating to Purpose and Applicability) to register under the terms of this subchapter if an exempt facility is causing water pollution that could be avoided through compliance with the requirements of this subchapter.

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§321.240. Annual Waste Treatment Fee.

(a) In accordance with §§305.501-305.507 of this title (relating to Waste Treatment Inspection Fee Program), registrants authorized to discharge to surface waters from petroleum bulk stations and

terminals under the requirements of this subchapter shall remit to the commission an annual waste treatment fee.

- (b) The fee assessed annually shall be in accordance with the following fee rate schedule:
- (1) for any active facility, the fee shall be \$500, as determined by either the information specified on the application for registration or on the Petroleum Bulk Stations and Terminals Report form submitted during the calendar year.
 - (2) for any inactive facility, the fee shall be \$250.
- (3) any increased assessment above the amounts in paragraphs (1) or (2) of this subsection shall be in accordance with regulations adopted by the commission.

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